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WARRANT
for
SPECIAL TOWN MEETING

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JUNE 13, 1978

1978

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FOR

1978 SPECIAL TOWN MEETING

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WARRANT FOR SPECIAL TOWN MEETING

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. Town of Wayland

To any of the Constables of the Town of Wayland, in said County:

Greetings:

In the name of the Commonwealth you are required to notify and warn the inhabitants of said Town qualified to vote in Town affairs to meet in the High School Field House on

TUESDAY, JUNE 13, 1978

at 7:45 P.M., then and there to act on the following articles:

ARTICLE 1. EMPLOY A DEPUTY BUILDING INSPECTOR

PROPOSED BY: BOARD OF SELECTMEN

ESTIMATED COST: $10,400

Article 1. To see if the Town will appropriate a sum of money to employ a Deputy Building Inspector and to determine whether such appropriation shall be provided by taxation, by appropriation from available funds, by transfer of funds already appropriated for another purpose, or otherwise; and to determine what Town officer, board or committee or combination of them shall be authorized to expend the money appropriated therefor; or take any action relative thereto.

COMMENTS: With the beginning of construction at the site of the Mainstone Condominiums, it has become necessary to allocate a substantial portion of the available inspection staff time to review work on that project. To avoid disruption of other inspection activities, a new part-time building inspector will be assigned exclusively to Mainstone, initially at the rate of about 20 hours a week. The need of an inspection process was anticipated in the drafting of the zoning by-law under which the project is being built; inspection fees required under the by-law will largely offset the cost of the half-time deputy inspector proposed under this Article.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 2. EMPLOY POLICE INTERNS

PROPOSED BY: BOARD OF SELECTMEN

ESTIMATED COST: $1,000

Article 2. To see if the Town will appropriate a sum of money to employ one or more Police Interns and to determine whether such appropriation shall be provided by taxation, by appropriation from available funds, by transfer of funds already appropriated for another purpose, or received as grants from the Commonwealth or Federal government, or otherwise; and to determine what Town officer, board or committee or combination of them shall be authorized to expend the money appropriated therefor; or take any action relative thereto.

COMMENTS: The Police Department has for four years utilized the services of two part-time Student Interns. Under a work study program, Wayland has provided 30% of the costs involved and the remaining 70% were provided by federal funds granted to the university involved. At the recent Annual Town Meeting $4,700 was appropriated in the Police budget in anticipation of the continuation of the program with underlying federal funds. There is now a significant probability that federal funds will no longer be available. The $1,000 to be provided under this Article when added to the amount already appropriated would provide 100% of the funds required for only one intern, rather than the two interns now employed and partially federally funded. The services provided by the intern are largely administrative or involve traffic direction, thus freeing regular officers for more intensive duties.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 3. TRANSFER OF FUNDS

PROPOSED BY FINANCE COMMITTEE

ESTIMATED COST: $47,000

Article 3. To see if the Town will appropriate a sum or sums of money for the operation and expenses of the various departments and to determine whether such appropriation shall be provided by taxation, by appropriation from available funds, by transfer of funds already appropriated for another purpose, or received as grants from the Commonwealth or Federal government, by borrowing under the provisions of Chapter 44 of the General Laws or otherwise; and to determine what Town officer, board or committee or combination of them shall be authorized to expend the money or monies appropriated therefor; or take any action relative thereto.

COMMENTS: The funds previously appropriated for the Blue Cross/ Blue Shield and fire and casualty insurance coverage were inadequate due to premium increases significantly larger than projected. Blue Cross/ Shield premiums increased about 20% and General Insurance about 25%. To cover these unexpected increases $47,000 will be transferred from Available Funds, Excess and Deficiency.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 4. APPROPRIATE FOR STABILIZATION FUND

PROPOSED BY: FINANCE COMMITTEE

Article 4. To see if the Town will appropriate a sum of money for the Stabilization Fund and to determine whether such appropriation shall be provided by taxation, by appropriation from available funds, by transfer of funds already appropriated for another purpose, by borrowing under the provisions of Chapter 44 of the General Laws or otherwise; or take any action relative thereto.

COMMENTS: This Article was inserted in the Warrant to provide for the possibility that the Town may learn (via the so-called "Cherry Sheet") of the actual amount of State aid it may expect to receive in the upcoming fiscal year prior to the conclusion of this Special Meeting. Should that information be available from the State prior to the Town Meeting, and should the Town be the beneficiary from the Cherry Sheet of an amount significantly larger than was received in the current fiscal year, the Finance Committee will recommend that a portion of the increase be transferred to the Stabilization Fund. Monies already in the Stabilization Fund, plus any that may be appropriated hereunder could be used in future years to meet necessary capital expenditures of the Town. Monies appropriated out of the Stabilization Fund may be used only upon the vote of an Annual Town Meeting and only for those purposes for which a Town is otherwise authorized to borrow, such as land acquisition, building renovations, construction costs and other similar items. Appropriations from accumulated funds previously set aside avoid the cost of future borrowings for capital expenditures, and in the meantime are invested at market interest rates.

In structuring the budget guidelines for the upcoming year, the Finance Committee assumed there would be no increase in the Cherry Sheet distribution. If, however, there should be an increase, then the appropriation and transfer contemplated under this Article can be made and the Town may still expect a tax rate that is substantially the same as last year.

RECOMMENDATION: Contingent upon receipt of the necessary information and the size of the Cherry Sheet distribution, the Finance Committee recommends approval of the Article.

ARTICLE 5. ACCEPT GIFTS

PROPOSED BY: BOARD OF SELECTMEN

Article 5. To see if the Town will accept any or all of the property which has been tendered to it as a gift, bequest, devise or otherwise, including any of the property described below:

Easements for sidewalk purposes granted by the persons listed below in property more fully described in an instrument which has been duly recorded with the Middlesex, South District, Registry of Deeds at the page in the book listed immediately to the right of their names:

	Book	Page
Charles A. & Donna S. Ticehurst	13430	704
James D. & Linda W. Wilcox	"	706
B. Allen & Eleanor G. Benjamin	"	710
Peace Lutheran Church, Inc.	"	712
L. Irving & Shirley C. Pollitt	"	714
G. William & Ellen G. Anderson	"	716
Hildergarde H. Harris	"	718
Sudbury Valley Trustees, Inc.	"	720
Lester O. & Dorothy E. Holman	"	722
James K. & Cynthia L. Forti	"	724
Thomas L. & Jennifer A. Lyons	"	727
Ira & Claire I. Marcus	"	729
Charles A. & Elizabeth A. Sanders	"	732
Dorothy T. Kearsley	"	734
Ruby S. Field	"	736
Leroy R. & Margaret A. Woodward	"	739
Dorothy S. Long	"	741
Elizabeth S. Russell	13432	519
Joseph D., Jr. & Sandra L. Cotoni	"	521
Sherman P. & Evelyn S. Spaulding	"	523
Robert S. & Hannah Ayer Saltonstall	13443	173
John H. L. & Katherine M. S. Bingham	"	183
E. Arnold & Ellen Parseghian (Reg. Land Section)	828	166

COMMENTS: This Article will formally accept the easements granted by abutters permitting the recent construction of sidewalks on Concord Road, Cochituate Road, and Old Connecticut Path. Without the contribution and cooperation of the owners involved, the projects could not have been completed.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 6. AMEND ZONING BY-LAWS

PROPOSED BY: PLANNING BOARD

Article 6. To see if the Town will amend its Zoning By-Laws in the following manner:

1. By deleting Section 1 and substituting the following therefor:

"PREAMBLE

Section I:

In accord with the authority conferred upon the Town by Article II of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts, G. L. Chapter 40A, and every other power it thereto in any way enabling, the Town of Wayland hereby adopts the following Zoning By-Laws which are intended and designed to achieve, but are not limited to, the following objectives: To lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

Said regulations include, but are not limited to restrictions, prohibitions and regulations concerning:

(a) Uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;

(b) Size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of sections twenty-nine through thirty-three, inclusive, of chapter ninety-three, and to chapter ninety-three D of the General Laws;

(c) Uses of bodies of water, including water courses;

(d) Noxious uses;

(e) Areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;

(f) Density of population and intensity of use;

(g) Accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and

(h) The development of the natural, scenic and aesthetic qualities of the community.

Nothing contained in these By-Laws, however, shall be construed to:

(a) Regulate or restrict the use of materials or methods of construction of structures regulated by the state building code;

(b) Regulate or restrict the interior area of a single family residential building;

(c) Prohibit, unreasonably regulate or require a special permit for the use of land for the primary purpose of agriculture, horticulture or floriculture; nor shall they be construed to prohibit or unreasonably regulate the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture, except that all such activities may be limited to parcels of more than five acres in areas not zoned for agriculture, horticulture or floriculture. For such purposes, land divided by a public or private way or a waterway shall be construed as one parcel.

(d) Prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements."

2. By adding the following new Section IIIC:

"Section IIIC.

The plans and maps referred to in Sections III, IIIA and IIIB shall be part of these Zoning By-Laws."

3. By deleting Section IV and substituting the following therefor:

"NON-CONFORMING USES

Section IV.

A. Except as may otherwise be provided by law, these By-Laws shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such by-law required by G. L. Chapter 40A, Section 5, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the non-conforming nature of said structure.

B. Pre-existing non-conforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by

the permit granting authority or by the special permit granting authority designated by these by-laws that such change, extension or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood. This section shall not apply to billboards, signs and other advertising devices subject to the provisions of sections twenty-nine through thirty-three, inclusive, of chapter ninety-three, and to chapter ninety-three D of the General Laws.

C. Construction or operations under a building or special permit shall conform to any subsequent amendment of these by-laws unless, the use or construction is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

D. Wherever a lawful non-conforming use or structure has not been used for twenty-four consecutive months or more, it shall not be resumed or re-established and all future uses shall conform to this By-Law.

E. (1) If a non-conforming structure is destroyed to an extent that the cost of restoration would be less than 75% of the assessed value of the structure, then any rebuilding or restoration can take place as of right so long as the rebuilding or restoration conforms precisely in size, configuration and extent of use to that which existed prior to the destruction or damage.

(2) If a non-conforming structure is destroyed to an extent that the cost of restoration would be equal to or greater than 75% of the assessed value of the structure, then a special permit to rebuild or restore the structure may be obtained in accordance with the following provisions:

(a) The Board of Appeals shall issue such permit if it determines, on the basis of information presented to it by the applicant, that the structure will be restored or rebuilt to conform precisely in size, configuration and extent of use to that which existed prior to the destruction or damage.

(b) The Board of Appeals may, but shall not be obligated to, issue such permit for any changes in size, configuration and extent of use in a non-conforming structure provided that such change shall not be substantially more detrimental to the neighborhood than the existing non-conforming use.

F. A special permit pursuant to the procedures set forth in Section XA from the Board of Appeals must be obtained before any change, alteration or extension of a non-conforming use or structure may be made. No such change, alteration or extension shall be permitted unless there is a finding by the Board of Appeals that such change, alteration or extension shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

G. Any permitted restoration or rebuilding shall be substantially completed within two years after the issuance of the special permit therefor, or such permission shall lapse. Unless otherwise required by the Board of Appeals, the new or restored structure shall have the same height and location on the lot as the replaced structure."

4. By substituting the words "Section XA" for the words "Section V(r)" wherever they appear in Sections V A, VI, VII and VII A.

5. By deleting Section X and substituting the following therefor:

"ZONING BOARD OF APPEALS

Section X

(a) A Zoning Board of Appeals consisting of three members and two associate members appointed by the Board of Selectmen is hereby established pursuant to the provisions of G. L. Chapter 40A, Section 12 having the powers more fully set forth in G. L. Chapter 40A, Sections 9 through 15 and particularly in Section 14.

(b) In addition to the aforesaid powers, the Board of Appeals shall have the following powers:

1. To adapt the requirements of these By-Laws to irregular, narrow or shallow lots or those unusual either in

shape or topography, provided that the spirit and intent of these By-Laws with regard to open spaces is preserved.

2. To permit a substitution for or an extension or alteration to an existing building whether conforming or non-conforming in accordance with provisions on use.

3. To grant temporary and conditional permits of limited duration for non-conforming uses and buildings incidental to development operations.

4. To grant special permits pursuant to Section XA for the conversion of a one-family house existing on September 5, 1934 into a two-family house, provided that:

   a. The lot on which the house is located conforms to the area and frontage regulations set forth in these By-Laws in effect at the time that the application for a permit shall have been filed;

   b. Each dwelling unit shall have its own kitchen and at least one bathroom;

   c. Each dwelling unit shall have sufficient space to park two automobiles off street; and

   d. A Disposal Works Constructions Permit for such use shall have been granted by the Board of Health.

5. To permit enlarging an old or locating a new ice house as needs may require, with such conditions as will protect the community."

6. To hear and decide petitions for variances for use or activity pursuant to the provisions of G. L. Chapter 40A, Section 10.

(c) Unless the applicant or appellant shall have filed a written statement with the Board of Appeals waiving his rights under G. L. Chapter 40A, Section 9, failure by the Board to file a copy of its decision in the office of the Town Clerk upon each application for a special permit within 45 days after

the filing of such application, shall be deemed to be a grant of the permit applied for, insofar as such grant complies with the Constitution of the United States and of this Commonwealth.

(d) Unless the applicant or appellant shall have filed a written statement with the Board of Appeals waiving his rights under G. L. Chapter 40A, Sections 10 and 15, failure by the Board to file a copy of its decision in the office of the Town Clerk upon each application for a variance, upon any appeal or upon any other petition for relief within seventy-five days after the conclusion of its public hearing upon such application, shall be deemed to be a grant of the variance or relief applied for, insofar as such grant complies with the Constitution of the United States and of this Commonwealth.

6. By deleting Section X A and substituting the following Section therefor:

"SPECIAL PERMITS

Section X A

(a) The following types of uses shall be permitted only upon issuance of a special permit pursuant to the provisions of G. L. Chapter 40A, Section 9:

1. Cluster Developments subject to the provisions of Section IX A.

2. Planned Developments subject to the provisions of Section IX B.

3. All uses in Flood Plain and Watershed Protection Districts subject to the provisions of Section X B and X C respectively.

4. Specific types of uses in Single Residence Districts may be permitted only if the Board shall find that the use shall comply with and satisfy the criteria of Section V(r).

5. All uses in the following districts upon endorsement by the Board of its approval on a plan of the site, all in accord with the provisions of paragraph (b) below:

a. Roadside Business Districts
b. Business Districts
c. Refuse Disposal Districts
d. Light Manufacturing Districts
e. Limited Commercial Districts

(b) No person shall construct, reconstruct, alter, extend, enlarge or use any structure for any business or commercial purpose or any structure containing more than two dwelling units for any purpose, including residential purposes, unless a site plan bearing an endorsement of approval by the Board of Appeals shall have been issued following public hearings held within forty-five days after the filing of an application with the Board, a copy of which shall forthwith be given to the Town Clerk by the applicant.

1. Said application and site plan shall include the information listed below unless otherwise permitted by the Board. Preliminary site plans may be submitted without application where deemed appropriate by the Board.

   a. A site plan suitable for recording and showing all existing and proposed lot lines, easements, rights-of-way, and other matters then on record at the Middlesex, South District, Registry of Deeds concerning the physical description of the premises, natural land features (such as topographical data) man made improvements (surface and sub-surface) including all structures, water courses, ponds, brooks, wetlands, flood plains, existing and proposed ditches, culverts, or other water courses, methods of handling surface and sub-surface drainage, ways for vehicular and pedestrian access, and such other information as the Board of Appeals may require.

   b. Evaluation of impact on water resources. The applicant shall submit such material as may be required including measures proposed to prevent pollution of surface or ground water, erosion of soil, excessive run-off of precipitation, excessive raising or lowering of the water table, flooding of other properties.

c. Evaluation of impact on landscape. An explanation, with sketches as needed, of design features intended to integrate the proposed new buildings, structures, plantings, etc., into the existing landscape to preserve and enhance existing aesthetic assets of the site, to screen objectionable features from neighbors.

d. Evaluation of impact on traffic in the vicinity of site.

1) Traffic Impact Evaluation. The projected number of motor vehicle trips to enter or depart from the site shall be estimated for an average day and peak hours.

2) The projected traffic flow patterns for both vehicular and pedestrian access shall be described and related to the site plan, including vehicular movements at all major intersections likely to be affected by the proposed use of the site.

3) The impact of this traffic upon existing streets shall be evaluated in relation to road capacities.

e. Evidence of approval by the Board of Health were required.

2. The Board shall have power to modify or amend its approval of a site plan on application of the owner, lessee or mortgagee of the premises or upon its own motion (if such power is reserved by the Board in its original approval). All of the provisions of this paragraph applicable to approval shall, where apt, be applicable to such modification or amendment.

3. In deciding applications under this paragraph the Board of Appeals shall assure to a degree consistent with a reasonable use of the site for the purposes permitted by the regulations of the district in which located:

a. Protection of adjoining premises against detrimental or offensive uses on the site, including (among others) noise, vibration, smoke, gas, fumes, odor, dust or other objectionable features and that such use shall not otherwise be injurious to the inhabitants or their property, or dangerous to the public health or safety;

b. That such use shall not be against the public interest or derogate from the character of the neighborhood in which such use is to occur;

c. Convenience and safety of vehicular and pedestrian movement in relation to adjacent ways and land.

d. Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted on the site, and the methods of drainage for surface water.

(c) Before approving any special permit, the Board may impose conditions, safeguards and limitations on time and/or use to assure that the structure or use proposed shall at all times be in harmony with the general purpose and intent of these By-Laws.

(d) All uses whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

(e) Special permits shall only be issued pursuant to the provisions of G. L. Chapter 40A, Sections 9, 11 and 14 following public hearings held within forty-five days after filing of an application with the Board of Appeals, a copy of which shall forthwith be given to the Town Clerk by the applicant.

(f) All special permits shall lapse within two years and including such time required to pursue or await the determination of an appeal under G. L. Chapter 40A, Section 17 from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permits for construction, if construction has not begun by such date except for good cause.

7. By deleting Section XI and substituting the following therefor:

"ENFORCEMENT

"Section XI.

1. The Inspector of Buildings shall enforce these By-Laws and shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of any zoning by-law; and no permit or license shall be granted for a new use of a building, structure or land unless such use shall conform in all respects with the provisions of these By-Laws.

2. If the Inspector of Buildings is requested in writing to enforce such By-Laws against any person allegedly in violation of the same and he shall decline to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of such request.

3. Whoever shall breach or violate any provision of these Zoning By-Laws and/or any of the Rules and Regulations duly adopted by the Board of Appeals of the Town of Wayland as the same may have been amended from time to time, shall be punished by a fine of not exceeding one hundred dollars for each offense or for each day of a continued offense, in the absence of an express provision for another penalty."

or take any action relative thereto.

COMMENTS: This Article is occasioned by a State law, Chapter 808 of the Acts of 1975, which becomes effective July 1, 1978. The law mandates that the zoning by-laws of all Towns in the Commonwealth contain certain provisions relating to the decision making processes of Planning Boards and Zoning Boards of Appeal, the form of the approvals and permits issued by those Boards, and similar matters. The Planning Board will hold a public hearing prior to the Special Town Meeting and further will report in detail at the Meeting on the changes effected by the amendment.

The proposed changes are to bring Wayland's by-law into conformity with the State requirements. At the same time, the regulations were reorganized and the format simplified for reasons of clarity.

The Planning Board intends at a future Town Meeting to present comprehensive changes in the Town's zoning by-laws.

RECOMMENDATION: If the Town fails to approve the amendment under this Article, State law provides that existing Town maps will not be in force and the Town will be without zoning regulations of any kind; therefore, the Finance Committee recommends approval of the Article.

1978

PLANNING BOARD EXPLANATION

Article 6

Special Town Meeting

June 13, 1978

Zoning is the power of cities and towns to regulate the use of land, buildings and structures in order to protect the health, safety, and general welfare of all present and future inhabitants. This power of regulation has been granted by the State to the cities and towns since the 1920's and Wayland has had Zoning By-Laws since 1934. Our Zoning By-Laws have always been in compliance with State law.

In 1975 the State's Zoning law (found in Chapter 40A of the General Laws) was substantially revised by Chapter 808. This new law requires the cities and towns to bring their Zoning By-Laws into compliance by June 30, 1978. Article 6 in the Warrant makes the changes necessary for Wayland to be in compliance with State law. Failure to take action places the Town in a position where its Zoning By-Laws are not only unclear and uncertain, but also potentially in conflict with State law. Such a situation is extremely undesirable.

In addition to the changes necessitated by Chapter 808, this Article proposes some changes and modifications in our Zoning By-Laws which should be acted upon at this time. Such changes and modifications will be noted in this explanation. Article 6, in its entirety, should not be confused with a more comprehensive zoning revision which the Planning Board will submit at a later date.

Following is an explanation of the Article, Section by Section. In referring to the word Section, we mean the Section of the Warrant Article, not a Section of the existing Zoning By-Laws.

SECTION 1.

This Section, "PREAMBLE", provides a description of the Town's power to zone and lists the specific objectives for which zoning can be used. The language is from Chapter 808; the objectives have long been Wayland's, although not included in our present Zoning By-Laws. In addition the last few paragraphs, (a) through (d), make it clear what limitations are placed upon zoning.

SECTION 2.

Chapter 808 now requires zoning maps, showing the different districts into which the Town is divided, to be a part of our Zoning By-Laws. This Section will bring Wayland into compliance with State law.

SECTION 3.

This Section, "NON-CONFORMING USES", has two elements. "A non-conforming use is one which is not allowed by the Zoning By-Laws but which was either not prohibited when the structure or use came into existence or was allowed by a variance (deviation) from our Zoning By-Laws.

The first element, to be found in paragraphs A, B, C, D, F, and G, incorporates State law which will apply to the alteration, change and extension of non-conforming uses. Accepting these paragraphs will bring Wayland into compliance with State law.

The second element to be found in paragraph E proposes a change in the way which the Town deals with the substantial destruction of non-conforming structures. Currently, the Town allows the owner as of right to rebuild his

or her property if the destruction does not exceed "75% of insurable value." What this means is uncertain and, consequently, the rights of the Town and affected owners are uncertain. This was the case, for example, in the Red Coach fire. We propose to remedy this situation in two ways: (1) if the cost of reconstruction is less than 75% of the structures assessed valuation, then rebuilding in precise conformity to the old structure can take place as of right. The Building Inspector and the Assessors can confirm and provide data to determine more clearly what is or is not permitted, (2) if the cost of reconstruction is more than 75% of the structure's assessed valuation, then the owner could rebuild with a permit from the Zoning Board of Appeals in precise conformity to the old structure or he could request that it be rebuilt in a different fashion. The Town, while not being obligated to accept a different structural design, would have the flexibility to approve a more desirable structure.

SECTION 4.

This Section is a housekeeping amendment. Many special permits currently required in our business districts are issued under a section of our Zoning By-Laws dealing with Single Residences. In addition, other sections of our present Zoning By-Laws provide for special permits. We propose to collect in one section all uses permitted by special permit.

SECTION 5.

This Section, "Zoning Board of Appeals", states and establishes the powers of this Board. There are additional features worth noting.

X(a) and X(b) (1) through (5) essentially restate existing language. X(b) (6) authorizes the Zoning Board of Appeals to decide petitions for use variances where the applicant can meet the requirements of State law. The new State zoning law requires communities to take action affirmatively prior to July 1, 1978 in order to retain the use variance; otherwise, the power to grant use variances will expire. Under present zoning law, the Zoning Board of Appeals may grant use variances. The Planning Board believes that the Zoning Board of Appeals should retain the flexibility inherent in the authority to grant use variances until the Town addresses the subject in greater detail as part of comprehensive zoning revision.

Although Chapter 808 requires the Zoning Board of Appeals to act within a certain time period, otherwise, special permit and variance applications will be granted automatically, our current Zoning By-Laws set no time limits for action on these applications. Paragraph (c) would apply the existing 45-day time period currently provided in our Zoning By-Laws for site plan approval applications to all special permit applications. Paragraph (d) proposes a 75-day time limit for action on variance applications. Paragraphs (c) and (d) will bring Wayland into compliance with State law.

SECTION 6.

This Section, "SPECIAL PERMITS", recognizes that provisions authorizing the Zoning Board of Appeals to issue special permits for one use or another are now scattered throughout our Zoning By-Laws. In addition, the site plan approval process which regulates business uses is eliminated and replaced with a form of special permit. All of the standards outlined in the Article

which would be applicable to special permits for business uses are identical to the standards currently applied in the site plan approval process. While site plan approval has been the accepted practice in this Town for a period of time, we suggest that the authority under which the Zoning Board of Appeals acts be clear. To this end, we propose to make what are presently called site plan approvals a form of special permit since State law provides only for the granting of special permits.

Paragraph (d) providing special permits for activities accessory to scientific research, development and production, paragraph (e) requiring a hearing (within 45 days of the application date for a special permit) and paragraph (f) revoking the authority provided in a special permit if the applicant has not started the permitted activity within two years, all will bring Wayland into compliance with State law.

SECTION 7.

This Section, "ENFORCEMENT", outlines in paragraph XI 1. and 2. the authority of the Building Inspector to enforce the Zoning By-Laws and the specific procedures which must be pursued in dealing with alleged violations. Paragraph XI 3. increases from $50 a day to $100 a day fine for violation of our Zoning By-Laws. All of these paragraphs will bring Wayland into compliance with State law.

PLANNING BOARD

F. William Sawyer, Chairman
Rachel Bratt
Edward J. Collins
W. Hugh M. Morton
Sara I. Peters
Martha C. Taub

Subsequent to the printing of the Warrant and the public hearing, Town Counsel drafted the motion to be made under Article 6. The motion will include the following language:

MOVED that the Town amend its By-Laws exactly as printed under Article 6 of the Warrant with the following exceptions:

1. Delete the phrase "by the applicant" from Section IV E(2) (a).

2. Delete the last line of paragraph 4 and substitute the following therefor:

   "wherever they appear in Sections V A, VI, VII, VII A and XII."

3. Delete Section X(b)4 and designate paragraphs X(b)5 and 6, "X(b)4" and "X(b)5" respectively.

4. Add the following new paragraphs to Section X A(a):

   "6. Any restoration, change, extension or alteration of a pre-existing non-conforming structure or use subject to the provisions of Section IV.

   7. The conversion of a one-family house existing on September 5, 1934 into a two-family house, provided that:

      a. The lot on which the house is located conforms to the area and frontage regulations set forth in these By-Laws in effect at the time that the application for a permit shall have been filed;

      b. Each dwelling unit shall have its own kitchen and at least one bathroom;

      c. Each dwelling unit shall have sufficient space to park two automobiles off street; and

      d. A Disposal Works Constructions Permit for such use shall have been granted by the Board of Health.

   8. Illumination of athletic fields, golf courses and tennis courts pursuant to the provisions of Section XII."

You are required to serve this Warrant by posting copies thereof, attested by you, at the Town Building, at the public libraries in Cochituate and in Wayland Center, fourteen days at least, before the time of holding said meeting.

Hereof, fail not and make due return of this Warrant with your doings thereon to the Town Clerk on or before May 30, 1978.

Given under our hands and seal this twenty-second day of May in the year one thousand nine hundred and seventy-eight.

CATHERINE W. SEILER
L. THOMAS LINDEN
MARCIA P. CROWLEY
HERBERT N. ODELL, JR.
W. H. IRVINE

Selectmen of the Town of
Wayland

A true copy attest.
Frederick Berry
Constable of Wayland.
May 30, 1978.

ROBERT S. SWAIN, JR.
PAUL J. FRANCHI
JONATHAN STRONG
WILLIAM G. SEGAL
BERNARD R. HAND
FRANCIS J. FLEMING
BERNICE B. SAMELSON

Finance Committee

TOWN OF WAYLAND
Board of Selectmen
38 COCHITUATE ROAD
WAYLAND, MASS. 01778

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Wayland, Mass.

POSTAL PATRON

WAYLAND, MASS. 01778